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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/855,156	05/14/2001	Lee Goodman	74120-301394	1127
25764	7590	06/20/2005		
FAEGRE & BENSON LLP PATENT DOCKETING 2200 WELLS FARGO CENTER MINNEAPOLIS, MN 55402			EXAMINER KADING, JOSHUA A	
			ART UNIT 2661	PAPER NUMBER

DATE MAILED: 06/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/855,156

Applicant(s)

GOODMAN, LEE

Examiner

Joshua Kading

Art Unit

2661

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 January 2005.
2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-15 is/are rejected.
7) ☒ Claim(s) 14 is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 1-25-05.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Objections

1. Claim 14 is objected to because of the following informalities:

Claim 14, lines 4-5, "the VoIP gateway" should be changed to --a VoIP gateway-- because there is no previous disclosure of single VoIP gateway in the claim.

Appropriate correction is required.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-3, 7-13, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,477,492 B1, Connor in view of U.S. Patent 6,512,746 B1, Sand.

Regarding claims 1, 10, 13, and 15 Connor discloses a computer program (*col. 7, claim 21 preamble*) to implement methods "of testing voice call quality in a...network comprising: enabling communications devices connected to the...network to answer test calls received over the...network by playing embedded voice files (*col. 5, lines 17-23 as seen in figure 5*); controlling a single test probe to generate test calls over the...network to the communications devices (*col. 5, lines 17-23*); and using the single

Art Unit: 2661

test probe to measure the voice call listening quality from the embedded voice files played by the communications devices (*col. 5, lines 23-31*)."

However, Connor lacks what Sand discloses, the network is "Voice Over Internet Protocol (*col. 4, lines 57-59*)."

It would have been obvious to one of ordinary skill in the art at the time of invention to have the network consist of VoIP for the purpose of offering a telephone network with the advantages of a connectionless system like IP. The motivation being that the alternative VoIP network will compete with existing phone services to the benefit of the customer (*Sand, col. 1, lines 47-52 and 57-60*).

Regarding claims 2 and 11, Connor lacks what Sand discloses, "the communications device includes a VOIP gateway (*figure 2, element 30*)."

It would have been obvious to one with ordinary skill in the art at the time of invention to include the VOIP gateway for the same reasons and motivation as in claims 1 and 10.

Regarding claim 3, Sand lacks what Connor discloses, "measuring the voice call listening quality using a perceptual test model (*col. 5, lines 23-31*)."

It would have been obvious to one with ordinary skill in the art at the time of invention to include the "perceptual test model" for the same reasons and motivation as in claim 1.

Regarding claim 7, Sand lacks what Connor further discloses, "controlling a test probe to place the test call to the communications device (*col. 5, lines 17-23 as seen in*

Art Unit: 2661

figure 5, element 32 is the test probe)." It would have been obvious to one with ordinary skill in the art at the time of invention to include the controlling of the test probe for the same reasons and motivation as in claim 1.

Regarding claim 8, Sand lacks what Connor further discloses, "wherein measuring comprises: using the test probe that placed the test call to measure the voice call listening quality (*col. 5, lines 23-31 as seen in figure 5, element 32*)." It would have been obvious to one with ordinary skill in the art at the time of invention to include the using the test probe for the same reasons and motivation as in claim 7.

Regarding claim 9, Connor lacks what Sand further discloses, "wherein the test probe is connected to the VOIP network over an IP connection (*figure 5, element 32 is connected in as seen over the IP connection*)." It would have been obvious to one with ordinary skill in the art at the time of invention to include the using the test probe connected to an IP connection for the same reasons and motivation as in claim 8.

Regarding claim 12, Connor lacks what Sand further discloses, "the communications devices further include a VOIP telephone (*figure 5, elements 20*)." It would have been obvious to one with ordinary skill in the art to include the VOIP telephone for the same reasons and motivation as in claim 11.

Art Unit: 2661

4. Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Connor and Sand as applied to claim 3 above, and in further view of applicant's admitted prior art (AAPA).

Regarding claim 4, Connor and Sand lack what AAPA discloses, "the perceptual test model comprises Perceptual Analysis Measurement System (*Specification, page 2, lines 25-26*)." It would have been obvious to one of ordinary skill in the art at the time of invention to include the PAM for the purpose of measuring the quality of speech across the network. The motivation for doing so would be to determine if components are functioning correctly (*Connor, col. 5, line 27*).

Regarding claim 5, Connor and Sand lack what AAPA further discloses, "the perceptual test model comprises Perceptual Speech Quality Measurement (*Specification, page 2, line 25*). It would have been obvious to one of ordinary skill in the art at the time of invention to include the PSQM for the purpose of measuring the quality of speech across the network. The motivation for doing so would be to determine if components are functioning correctly (*Connor, col. 5, line 27*).

5. Claims 6 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Connor in view of Sand in further view of U.S. Patent 6,876,647 B2, Celi, Jr. (Celi).

Regarding claim 6, Connor and Sand lack what Celi discloses, "configuring the communications device to use an interactive response unit within the communications device to answer the test call (*col. 6, lines 2-4, where the interactive response unit contains the prerecorded audio used to answer the test call in Connor*)."

It would have been obvious to one of ordinary skill in the art at the time of invention to include the prerecorded voice file in the interactive response unit for the purpose of having a device that contains a benchmark voice test file for use in testing. The motivation for using a benchmark test file is so that the data that has traversed the network can be compared to the original file and network quality can be determined (*Connor, col. 5, line 27-29*).

Regarding claim 14, Connor discloses, "a voice call listening quality testing system comprising: responsive to receipt of test calls over the...network by the...gateway, to answer the test calls by playing an embedded voice file (*col. 5, lines 17-23 as seen in figure 2 where the VRS system acts as the gateway device as described in applicant's application by playing the voice file in response to an incoming call*); and a test probe coupled to the...network, the test probe configured to test voice call listening quality in the...network by generating test calls to each of the...gateways (*col. 5, lines 17-18 where although there is only one gateway in Connor, one of ordinary skill in the art would recognize that if the embedded voice file can be played from one gateway, it can be played from any number of gateways*), recording the embedded voice files played by each of the plurality of...gateways (*col. 5, lines 21-23*), and

Art Unit: 2661

measuring voice listening quality of the test calls by comparing the recorded embedded voice files to a reference voice file stored with the test probe (*col. 5, lines 23-31*)."

However, Connor lacks what Sand discloses, the network and gateways are VoIP including "a plurality of VoIP gateways deployed at various points along a border of a VoIP network (*figure 5, elements 58 are VoIP gateways border the VoIP network*).

It would have been obvious to one of ordinary skill in the art at the time of invention to include the VoIP network and gateways for the purpose of offering a telephone network with the advantages of a connectionless system like IP. The motivation being that the alternative VoIP network will compete with existing phone services to the benefit of the customer (*Sand, col. 1, lines 47-52 and 57-60*).

Connor and Sand however, further lack what Celi discloses, "each of the plurality of VoIP gateways including an IVR unit operable...to...play an embedded voice file (*col. 6, lines 2-4*)."

It would have been obvious to one of ordinary skill in the art at the time of invention to include the prerecorded voice file in the interactive response unit for the purpose of having a device that contains a benchmark voice test file for use in testing. The motivation for using a benchmark test file is so that the data that has traversed the network can be compared to the original file and network quality can be determined (*Connor, col. 5, line 27-29*).

Response to Arguments

6. Applicant's arguments, see REMARKS, page 5, *Claim Objections*, filed 21 January 2005, with respect to the objection to claim 11 have been fully considered and are persuasive. The objection of claim 11 has been withdrawn.

7. Applicant's arguments, see REMARKS, pages 5-6, *35 U.S.C. 112 Rejections*, filed 21 January 2005, with respect to the 35 U.S.C. 112 rejection of claim 2 have been fully considered and are persuasive. The 35 U.S.C. 112 rejection of claim 2 has been withdrawn.


8. Applicant's arguments with respect to the 35 U.S.C. 102(b) and 35 U.S.C. 103 rejections of claims 1-13 have been considered but are moot in view of the new ground(s) of rejection.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joshua Kading whose telephone number is (571) 272-3070. The examiner can normally be reached on M-F: 8:30AM-5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chau Nguyen can be reached on (571) 272-3126. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2661

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Joshua Kading
Examiner
Art Unit 2661

June 3, 2005



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